

SUBCHAPTER A—FINANCIAL MANAGEMENT SERVICE

PART 202—DEPOSITARIES AND FINANCIAL AGENTS OF THE FEDERAL GOVERNMENT¹

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AUTHORITY: 12 U.S.C. 90, 265-266, 391, 1452(d), 1464(k), 1789a, 2013, 2122 and 3101-3102; 31 U.S.C. 3303 and 3336.

§ 202.1 Scope of regulations.

The regulations in this part govern the designation of Depositaries and Financial Agents of the Federal Government (hereinafter referred to as depositaries), and their authorization to accept deposits of public money and to perform other services as may be required of them. Public money includes, but is not limited to, revenue and funds of the United States, and any funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees. The designation and authorization of Treasury Tax and Loan depositaries for the receipt of deposits representing Federal taxes are governed by the regulations in part 203 of this chapter.

[62 FR 45520, Aug. 27, 1997]

§ 202.2 Designations.

(a) Financial institutions of the following classes are designated as Depositaries and Financial Agents of the Government if they meet the eligibility requirements stated in paragraph (b) of this section:

(1) Financial institutions insured by the Federal Deposit Insurance Corporation.

¹The regulations, which previously appeared in this part, governing payment of checks drawn on the United States Treasury now appear in revised form in part 240 of this chapter (Department Circular 21 (Second Revision)).

(2) Credit unions insured by the National Credit Union Administration.

(3) Banks, savings banks, savings and loan, building and loan, and homestead associations, credit unions created under the laws of any State, the deposits or accounts of which are insured by a State or agency thereof or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts of such financial institutions, United States branches of foreign banking corporations authorized by the State in which they are located to transact commercial banking business, and Federal branches of foreign banking corporations, the establishment of which has been approved by the Comptroller of the Currency.

(b) In order to be eligible for designation, a financial institution is required to possess, under its charter and the regulations issued by its chartering authority, either general or specific authority to perform the services outlined in § 202.3(b). A financial institution is required also to possess the authority to pledge collateral to secure public funds.

[44 FR 53066, Sept. 11, 1979, as amended at 46 FR 28152, May 26, 1981; 62 FR 45521, Aug. 27, 1997]

§ 202.3 Authorization.

(a) *To accept deposits covered by the appropriate Federal or State insurer.* Every depositary is authorized to accept a deposit of public money in an official account, other than an account in the name of the United States Treasury, in which the maximum balance does not exceed the "Recognized Insurance Coverage." "Recognized Insurance Coverage" means the insurance provided by the Federal Deposit Insurance Corporation, the National Credit Union Administration, and by insurance organizations specifically qualified by the Secretary of the Treasury.

(b) *To perform other services.* (1) The Secretary of the Treasury may authorize a depositary to perform other services including, but not limited to:

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(i) The maintenance of official accounts in which balances will be in excess of the applicable Federal or State insurance coverage;

(ii) The maintenance of accounts in the name of the United States Treasury;

(iii) The acceptance of deposits for credit of the United States Treasury;

(iv) The furnishing of bank drafts in exchange for collections.

(2) To obtain authorization to perform services, a depository must:

(i) File with the Secretary of the Treasury an appropriate agreement and resolution of its board of directors authorizing the agreement (both on forms prescribed by the Financial Management Service and available from Federal Reserve Banks), and

(ii) Pledge collateral security as provided for in § 202.6.

[32 FR 14215, Oct. 13, 1967, as amended at 44 FR 53066, Sept. 11, 1979; 49 FR 47001, Nov. 30, 1984; 62 FR 45521, Aug. 27, 1997]

§ 202.4 Agreement of deposit.

A depository which accepts a deposit under this part enters into an agreement of deposit with the Treasury Department. The terms of this agreement include:

(a) All of the provisions of this part.

(b) Any instructions issued pursuant to this part by the Treasury or by Federal Reserve Banks as Fiscal Agents of the United States or by any other Government agency.

(c) The provisions prescribed in Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Orders 11375 and 12086, and regulations issued thereunder at 41 CFR chapter 60, as amended.

(d) The requirements of section 503 of the Rehabilitation Act of 1973, as amended, and the regulations issued thereunder at 41 CFR part 60-741, requiring Federal contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.

(e) The requirements of section 503 of the Vietnam Era Veterans' Readjustment Assistance Act of 1972, as amended, 38 U.S.C. 4212, Executive Order 11701, and the regulations issued thereunder at 41 CFR parts 60-250 and 61-250, requiring Federal contractors to take

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affirmative action to employ and advance in employment qualified special disabled and Vietnam Era veterans.

[44 FR 53067, Sept. 11, 1979, as amended at 62 FR 45521, Aug. 27, 1997]

§ 202.5 Previously designated depositories.

A depository previously designated will, by the acceptance or retention of deposits, be presumed to have assented to all the terms and provisions of this part and to the retention of collateral security theretofore pledged.

[32 FR 14215, Oct. 13, 1967]

§ 202.6 Collateral security.

(a) *Requirement.* Prior to receiving deposits of public money, a depository authorized to perform services under § 202.3(b) must pledge collateral security in the amount required by the Secretary of the Treasury.

(b) *Acceptable security.* Types and valuations of acceptable collateral security are addressed in 31 CFR part 380. For a current list of acceptable classes of securities and instruments described in 31 CFR part 380 and their valuations, see the Bureau of the Public Debt's web site at www.publicdebt.treas.gov.

(c) *Deposits of securities.* Unless the Secretary of the Treasury provides otherwise, collateral security under this part must be deposited with the Federal Reserve Bank or Branch of the district in which the depository is located (depositories located in Puerto Rico and the Virgin Islands will be considered as being located in the New York Federal Reserve district), or with a custodian or custodians within the United States designated by the Federal Reserve Bank, under terms and conditions prescribed by the Federal Reserve Bank. Securities deposited with a Federal Reserve Bank must be accompanied by a letter stating specifically the purpose for which the securities are being deposited.

(d) *Assignment.* A depository that pledges securities which are not negotiable without its endorsement or assignment may, in lieu of placing its unqualified endorsement on each security, furnish an appropriate resolution and irrevocable power of attorney authorizing the Federal Reserve Bank to

assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the Federal Reserve Banks shall prescribe.

(e) *Disposition of principal and interest payments of the pledged securities after a depositary is declared insolvent*—(1) *General*. In the event of the depositary's insolvency or closure, or in the event of the appointment of a receiver, conservator, liquidator, or other similar officer to terminate its business, the depositary agrees that all principal and interest payments on any security pledged to protect public money due as of the date of the insolvency or closure, or thereafter becoming due, shall be held separate and apart from any other assets and shall constitute a part of the pledged security available to satisfy any claim of the United States, including those not arising out of the depositary relationship.

(2) *Payment procedures*. (i) Subject to the waiver in paragraph (e)(2)(iii) of this section, each depositary (including, with respect to such depositary, an assignee for the benefit of creditors, a trustee in bankruptcy, or a receiver in equity) shall immediately remit each payment of principal and/or interest received by it with respect to collateral pledged pursuant to this section to the Federal Reserve Bank of the district, as fiscal agent of the United States, and in any event shall so remit no later than ten days after receipt of such a payment.

(ii) Subject to the waiver in paragraph (e)(2)(iii) of this section, each obligor on a security pledged by a depositary pursuant to this section shall make each payment of principal and/or interest with respect to such security directly to the Federal Reserve Bank of the district, as fiscal agent of the United States.

(iii) The requirements of paragraphs (e)(2) (i) and (ii) of this section are hereby waived for only so long as a pledging depositary remains solvent. The foregoing waiver is terminated without further action immediately upon the involvency of a pledging depositary or, if earlier, upon notice by the Treasury of such termination. For purposes of this paragraph, a depositary is insolvent when, voluntarily or by action of competent authority, it is

closed because of present or prospective inability to meet the demands of its depositors or shareholders.

[32 FR 14216, Oct. 13, 1967, as amended at 36 FR 6748, Apr. 8, 1971; 36 FR 17995, Sept. 8, 1971; 39 FR 30832, Aug. 26, 1974; 44 FR 53067, Sept. 11, 1979; 46 FR 28152, May 26, 1981; 62 FR 45521, Aug. 27, 1997; 65 FR 55428, Sept. 13, 2000]

§ 202.7 Maintenance of balances within authorizations.

(a) Federal Government agencies shall contact the Department of the Treasury, Financial Management Service, before making deposits with a financial institution insured by a State or agency thereof or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts. The contact should be directed to the Cash Management Policy and Planning Division, Federal Finance, Financial Management Service, Department of the Treasury, Washington, DC 20227.

(b) Government agencies having control or jurisdiction over public money on deposit in accounts with depositaries are responsible for the maintenance of balances in such accounts within the limits of the authorizations specified by the Secretary of the Treasury.

[44 FR 53067, Sept. 11, 1979, as amended at 49 FR 47001, Nov. 30, 1984; 62 FR 45521, Aug. 27, 1997]

PART 203—PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

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